



Proposed Amendment to

- a) **Staff's Alternative #1: Wager increase to \$500 for Texas Hold'em "all in" bet only**
Amendatory Section WAC 230-15-135
Wagering limits for non house-banked card games
- b) **RGA's Alternative #2: Wager increase to \$300 for all bets in Texas Hold'em only**
Amendatory Section WAC 230-15-135
Wagering limits for non house-banked card games

ITEM 7 (a-b) on the March 13, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Dolores Chiechi, representing the Recreational Gaming Association.

Proposed Change

At the May 2008 meeting, the Commission filed a petition for rule change from the Recreational Gaming Association (RGA) to increase the maximum amount of a single wager in nonhouse-banked card games from \$40 to \$500. This change will only apply to house-banked card game licensees who offer nonhouse-banked cards games (i.e. poker) and meet the surveillance requirements specified in WAC 230-15-280.

Class E and Class F nonhouse-banked card game licensees will continue to be limited to a maximum single wager of forty dollars.

The RGA states that Tribal casinos are authorized to offer \$500 betting limits while house-banked card room licensees are limited to \$40. The strict regulations and controls required in security, surveillance and licensing of employees in these establishments are more than adequate to protect the public.

At the November 2008 meeting, the Commissioners held the petition over to the January 2009 meeting and asked staff to file the necessary paperwork with the Code Reviser's Office (a "102") to extend the discussion. Unfortunately, staff missed the filing deadline.

At their January 2009 meeting, the Commission did not re-file the original petition and instead filed Alternatives #1 and #2.

- **Alternative #1:** At the November 2008 Commission meeting, the Commission asked staff to draft alternative language to WAC 230-15-135 to only allow a specific type of "all-in" wager for Texas Hold'em to be up to \$500 while the rest remained at \$40. IN order to place the wager, the player would be required to use all his or her remaining chips. If a player had more than \$500 in chips, they would not be eligible to place the wager. The house-banked card room must meet the surveillance requirements in WAC 230-15-280.
- **Alternative #2:** This Alternative was proposed by the RGA after staff asked for comments on Alternative #1. The RGA's alternative would allow single wagers up to \$300 for Texas Hold'em games only, as long as the house-banked card room meets the surveillance requirements in WAC 230-15-280. This alternative is broader than Alternative #1 and would result in a player being able to wager more money than in Alternative #1, but less than in the RGA's original proposal.

Attachments:

- Alternative #1: Staff's alternative amendment to WAC 230-15-135 – filed January 2009.
- Alternative #2: The RGA's alternative amendment to WAC 230-15-135 – filed January 2009.
- Petitioner's Original amendment to WAC 230-15-135 – filed May 2008. This petition was not re-filed January 2009 and is not available for final action.
- WAC 230-15-280
- Letter and petition for rule change received March 17, 2008.
- Spreadsheet dated September 15, 2008, outlining increases in card game activity.

- RCW 9.46.010
- Excerpts from Commission meeting minutes: October 2005, January 2006, February 2007, March 2007.

History of Rule

There have been two petitions in the past three years to change wagering limits.

- In October 2005, the Commission filed a petition submitted by the RGA requesting the wagering limits in poker be increased from \$25 to \$100. This petition only applied to house-banked card game licensees offering poker games. At their January 2006 meeting, the Commission denied the petition based on the reasoning that the increase in wagering limits would constitute an expansion of gambling. (Commission meeting minutes from January 2006 attached).
- In January 2007, the Commission filed a petition submitted by Andrew Kimmerle, a poker player, requesting the wagering limits for Texas Hold'em games (poker) be increased from \$25 to \$40. Mr. Kimmerle explained that his petition would allow both house-banked and nonhouse-banked card game licensees to offer poker games with a maximum \$40 wagering limit and increase interest in the game. At their March 2007 meeting, the Commission approved the petition and increased the maximum single wagering limits in poker from \$25 to \$40. The increase became effective April 2007. (Commission meeting minutes from February and March 2007 attached).

For example, if a card room offered a \$100/\$200 betting structure, the increase would affect a Texas Hold'em game as follows:

1st Round: Dealt cards: \$100 wager, \$100 raise, \$100 raise, \$100 raise = \$400

2nd Round: Flop: \$100 wager, \$100 raise, \$100 raise, \$100 raise = \$400

3rd Round: Turn: \$200 wager, \$200 raise, \$200 raise, \$200 raise = \$800

4th Round: River: \$200 wager, \$200 raise, \$200 raise, \$200 raise = \$800

Texas Hold'em maximum wager: \$400 + \$400 + \$800 + \$800 = \$2,400 per player per hand

If a card room offered a \$150/\$300 betting structure, the maximum wager per player per hand would be \$3,600.

Tribal Limits

- Tribal – State Gaming Compacts limit Class II is \$40 and Class III poker wager limits to \$500.
- Tribal casinos are required to have Tribal Gaming Agents on site during all times games are operated.

Impact of the Proposed Change

Impact on House-Banked Card Game Licensees

Some house-banked card game licensees may see an increase in gross receipts due to an increase in poker game business at the card room.

Impact on Nonhouse-Banked Card Game Licensees

Class E and Class F card room licensees would be limited to \$40 wagering limits. If players go to card rooms with the higher limits, Class E and F card rooms may see a decrease in gross receipts due to a decrease in poker game business.

Impact on Agency

We would continue to regulate poker games the same way as we currently do if the new limits were approved. We don't anticipate that all licensees will offer the higher wager limits and most players will not wager at the higher limits.

Under current state-tribal compacts, poker is considered Class III gaming if the wagering amount exceeds \$40, which is the current maximum amount allowed in non-tribal card rooms. The state has co-regulatory authority over Class III gaming. If the wagering limit at non-tribal card rooms is increased to \$500, the

Class II threshold would be raised from \$40 to \$500. The state does not regulate Class II gambling activities at tribal casinos and tribes would have more Class III tables available.

A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on businesses.

Regulatory Concerns

As long as current standards were kept in place, there would be minimal change in our regulatory work for house-banked card rooms that offer poker games at the higher limits.

At their September 2008 meeting, the Commission filed a petition from the RGA to allow an unstaffed surveillance room at house-banked card rooms, when only nonhouse-banked games are operated. If wager limits for nonhouse-banked card games are increased, staff would not support that petition. At higher limits, card room surveillance should remain at least at the same level as it is now.

Resource Impacts

Minimal.

Policy Consideration

The proposed rule change is a policy decision.

- The Commission may wish to consider whether or not the proposal is consistent with the legislative intent expressed in RCW 9.46.010.
- The Commission established the current \$40 wager limit for nonhouse-banked card games effective April 2007. **Prior to this increase, a \$25 wager limit had been in place since 2000, when it was increased from \$10.**
- **In comparison, the legislature has not increased the:**
 - **Pull-tab wager limit since 1998, when it was increased from \$.50 to \$1; or**
 - **Raffle ticket maximum price since 1995, when it was increased from \$5 to \$25.**

The Commission denied two petitions to increase amusement game wager limits; one in 2007 from \$0.50 to \$2 and a second in 2008 from \$0.50 to \$1.

Statements Supporting the Proposed Rule Change

Bold = Additions made after the January 2009 Commission Meeting

- **E-mail dated February 18, 2009, from Greg Hubly supporting Alternative #2**
 - **E-mail dated February 18, 2009, from Fletcher Evans supporting Alternative #2**
 - **E-mail dated February 18, 2009, from Brian Tervo supporting Alternative #2**
 - **E-mail dated February 18, 2009, from Paul Chase supporting Alternative #2**
 - **E-mail dated February 18, 2009, from Rob Lange supporting Alternative #2**
 - **E-mail dated February 18, 2009, from Matt Hoback supporting Alternative #2**
 - **E-mail dated February 14, 2009, from Christopher Handy supporting Alternative #2**
- At the January 2009 Commission meeting, Chris Kealy, Vice President of the RGA, testified in support of filing Alternative #1 and #2.**
- E-mail dated December 11, 2008, from Andy Kimmerle, poker player, supporting the increase.
 - At the October 2008 Commission meeting, two people testified in support of the increase.
 - Gary Murrey, Recreational Gaming Association.
 - Chris Kealy, Iron Horse Casino in Auburn.
 - Letter dated September 5, 2008, from State Representative Dave Upthegrove supporting the Petition.
 - Letter dated September 8, 2008, from State Representative Steve Kirby supporting the Petition.
 - Letter dated September 8, 2008, from State Representative Brendan Williams supporting the Petition.
 - Letter dated September 8, 2008, from Dave Wilkinson, Skyway Park Bowl and Casino, supporting the Petition.
 - Letter dated June 25, 2008, from Andy Kimmerle supporting the increase.
 - E-mail dated May 1, 2008, from Brian Tervo supporting the increase.

Statements Opposing the Proposed Rule Change
<ul style="list-style-type: none"> • Letter dated November 13, 2008, from Senator Jeanne Kohl-Welles and Representative Steve Conway expressing “strong concern” about the Petition. • Letter dated November 12, 2008, from Senator Jim Hargrove opposing the Petition. • Letter dated November 12, 2008, from Senator Dan Swecker opposing the Petition. • E-mail dated November 13, 2008, from Representative Zack Hudgins expressing concern about the Petition.
Licensees Directly Impacted By the Change
House-banked card room licensees and nonhouse-banked (Class E and Class F) card room licensees.
Staff Recommendation
Final Action.
Proposed Effective Date for Rule Change
The petitioner requests an effective date of 31 days after adoption. If the Commission chooses to adopt a rule change, staff recommends an effective date of July 1, 2009.

**Alternative #1
Proposed by Staff
Filed at the January 2009 Commission Meeting**

Amendatory Section:

WAC 230-15-135 Wagering limits for nonhouse-banked card games.

Card room licensees must not exceed these wagering limits:

(1) Poker -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars, except that an all-in wager in the game of Texas Hold'em may not exceed five hundred dollars for house-banked card game licensees meeting the surveillance requirements specified in WAC 230-15-280; and

(d) An all-in wager is when a player wagers with all of their remaining chips on the current hand.

(2) Games based on achieving a specific number of points - Each point must not exceed five cents in value;

(3) Ante - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) Panguingue (Pan) - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

Alternative #2
Proposed by the Recreational Gaming Association
Filed at the January 2009 Commission Meeting

Amendatory Section:

WAC 230-15-135 Wagering limits for nonhouse-banked card games.

Card room licensees must not exceed these wagering limits:

(1) Poker -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars, except in the game of Texas Hold'em the maximum amount of a single wager may not exceed three hundred dollars for house-banked card game licensees meeting the surveillance requirements specified in WAC 230-15-280;

(2) Games based on achieving a specific number of points - Each point must not exceed five cents in value;

(3) Ante - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) Panguingue (Pan) - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

[Statutory Authority: RCW 9.46.070, 07-21-116 (Order 617), § 230-15-135, filed 10/22/07, effective 1/1/08; 07-09-033 (Order 608), § 230-15-135, filed 4/10/07, effective 1/1/08.]



August 2008 - Filed for Discussion

Proposed Amendment to
WAC 230-15-030 Authorized nonhouse-banked card games.
Proposed New Rule
WAC 230-16-157 Electronic poker tables.

September 2008 – Study Session

October 2008 – Discussion

**November 2008 – At the petitioner’s request, held over until
the WSGC Electronic Gambling Lab’s Report is available**

December 2008 – No Commission Meeting

January and February 2009 – Study Session

March 2009 – Final Action

ITEM 8 (a-b) on the March 13, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Dave Malone on behalf of PokerTek, Inc.

Proposed Change

PokerTek Inc. has submitted a petition for rule change requesting that electronic poker gambling tables be authorized for use in card rooms. The electronic poker table, PokerPro, provides an opportunity to play poker without a center dealer and uses electronic facsimiles of cards and chips. No physical gambling chips or cards are used during play.

PokerTek withdrew a similar petition at the March 2008 Commission meeting. PokerTek submitted a new petition to address technical deficiencies in the original submission, which was filed in August 2008. Following the November 2008 Commission meeting, PokerTek submitted the PokerPro table to our Electronic Gambling Lab for a full analysis.

The petitioner provided a demonstration of the PokerPro table at the October 2008 Commission meeting.

Attachments

Bold = additions since the November 2008 Commission Meeting

- **Gambling Commission Electronic Gambling Lab Report dated February 25, 2009.**
- RCW 9.46.0241
- Letter dated October 29, 2008, to Chair Bierbaum from Dave Malone.
- Letter dated July 29, 2008, from Dave Malone to Susan Arland, Rules Coordinator, providing supplemental information.
- Letter dated July 9, 2008, from Dave Malone to Susan Arland, Rules Coordinator, requesting that the Commission postpone taking action on their petition.
- Letter dated March 11, 2008, from Dave Malone to Dave Trujillo, Assistant Director, requesting that the Commission postpone taking action on their petition.
- Letter dated May 23, 2008, from Dave Malone to Susan Arland, Rules Coordinator.
- Letter dated February 29, 2008, from Dave Malone to Susan Arland, Rules Coordinator, including a list of jurisdictions that PokerTek is licensed in and PokerPro is approved for use.
- Petition and proposed amendment to WAC 230-15-030
- Petition and proposed new rule WAC 230-16-157
- Attorney General Opinion dated July 21, 1999, which addresses electronic facsimiles of gambling activities and gambling devices.

- Excerpts from the Commission meeting minutes when the DigiDeal Petition for Rule Change was under discussion – April, May, June and July 2001.
- RCW 9.46.0282 and WAC 230-15-160 (“live” dealer required).
- Photo of the PokerPro tables.

History of Rule

After the November 2008 Commission meeting, PokerTek submitted the PokerPro table to our Electronic Gambling Lab for a full analysis. Paul Dasaro, Electronic Gambling Lab Administrator, has prepared the attached report, dated February 25, 2009, for your review.

Nonhouse-banked card games authorized in WAC 230-15-030 are only allowed to be played with traditional cards and gambling chips. The petitioner is requesting that electronic facsimiles of cards and electronic facsimiles of gambling chips be authorized for use in poker games. Additionally, a “live” center dealer would no longer be required for poker.

In 2001, the Commission approved the use of electronic facsimiles of cards for house-banked card games. Following is a brief history of the DigiDeal table:

In March 2001, DigiDeal submitted a Petition for Rule Change requesting that electronic facsimiles of cards be authorized for use in house-banked card games. At their July 2001 meeting, the Commission approved the Petitioner’s request. The DigiDeal table is the only type of table with electronic facsimiles of cards that has been approved for use in Washington State. Attached are Commission meeting minutes from April, May, June and July 2001. At the July 2001 meeting, then ex-officio members and a number of other legislators generally opposed the Commission approving electronic facsimiles of cards.

The DigiDeal table is not a self-functioning table. A card room employee (CRE) is required to collect players’ bets of chips and to facilitate and continue card play. The table is equipped with drop boxes where the CRE collects player cash and exchanges it for chips from the chip tray located on the table. The drop for the table is counted in the count room.

The PokerPro table has electronic facsimiles of cards, electronic facsimiles of gambling chips, and essentially, a center dealer. Players bet electronically and the table collects the rake, awards winnings and subtracts losses electronically from players’ accounts while players are signed onto the table; this is facilitated electronically by the table itself and no physical cards, chips or a licensed dealer are at the table. There is no chip tray or drop box attached to the table.

Other jurisdictions:

In the petitioner’s letter dated February 29, 2008, the petitioner provided information on jurisdictions where PokerPro has already received or is seeking approval. **As part of this petition review, Commission staff contacted many of these state regulatory agencies. No known problems with the PokerPro table were described by any responding jurisdiction.**

The company of PokerTek and the PokerPro table are approved for operation by the:

- 1) Arkansas Racing Commission
- 2) Indiana Gaming Commission
- 3) Iowa Racing and Gaming Commission
- 4) Michigan Gaming Control Board
- 5) Mississippi Gaming Commission
- 6) Connecticut
- 7) West Virginia Lottery Commission

The California Department of Justice has registered the company of PokerTek which allows PokerTek to supply Tribes with gaming resources. This registration is good for two years while the full background investigation is completed.

The Louisiana Gaming Control Board has approved of the company PokerTek. While the PokerPro table was demonstrated, no property has yet requested the 90-day field trial needed for final approval.

The Nevada Gaming Control Board has approved of the company PokerTek but the PokerPro table is still undergoing needed field trials prior to approval of the table. Final approval is anticipated at an upcoming Commission meeting.

Also, in the letter, a reference was made that Washington State Tribes have approved the PokerPro table for use. Commission staff was not able to confirm this; however, staff found no evidence that any PokerPro tables are currently in operation. One Tribe may have made their own determination the PokerPro table is Class II.

Staff was unable to confirm with the National Indian Gaming Commission if the PokerPro table was formally ruled or determined to be Class II.

Impact of the Proposed Change

The petitioner's proposed language in WAC 230-15-030 (3)(e) states that the table would not "accept cash or other instruments of value." However, player cards and wagering accounts in the cage may be considered instruments of value.

If this rule change is approved, it would allow an entirely electronic version of poker games.

Impact on Agency

Regulatory programs would need to be established.

Equipment and software specifications for testing purposes would need to be developed and staff training would be required.

The current I.D. Stamp of \$361.51 for electronic card facsimile tables would apply to this table.

Impact on Licensees

The benefits of this system to card game licensees may be to:

- 1) Reduce the opportunity for dealers and players to manipulate or introduce new cards, or steal gambling chips;
- 2) Reduce dealer labor costs;
- 3) Deal more hands of cards;
- 4) Increase the amount of fees taken in; and
- 5) Reduce costs for cards and gambling chips.

A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on businesses.

Impact on Tribal Casinos

Under Washington State law and the "friendly lawsuit", video poker is illegal in Washington State.

Approving the PokerPro table may impact the Tribe's ability to negotiate for similar games, such as video poker.

Regulatory Concerns
None.
Resource Impacts
Regulatory programs and staff training would need to be established for the tables.
There may be less staff time needed to investigate complaints of player and/or dealer cheating. Most theft complaints relate to the card dealer.
Policy Consideration
<p>In 1994, the Legislature added:</p> <ul style="list-style-type: none"> • Video poker to the definition of a gambling device. • To the Gambling Act's legislative declaration - to limit the nature and scope of gambling activities and keep the criminal element out of gambling (RCW 9.46.010). <p>The Commission should consider:</p> <ol style="list-style-type: none"> 1) Whether or not this table is an electronic gambling device as defined in RCW 9.46.0241 (attached). "Gambling device" means any device or mechanism the operation of which a right to money, credits, deposits, or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance, including, but not limited to slot machines, video pull-tabs, video poker, and other electronic games of chance. <ul style="list-style-type: none"> • The petitioner states in his letter dated July 29, 2008, that the PokerPro table is not a gambling device where one player plays against the house, i.e. video poker. The PokerPro table deals electronic facsimiles of cards to two to ten players who play against each other to determine winners and losers. • See report from our Electronic Gambling Lab. 2) If automatically crediting poker winnings to a player account in the cage is the same as crediting winnings to a cash card. Electronically crediting winnings to a cash card is something the Commission denied at their January 2008 meeting in relation to electronic video pull-tab dispensers. <ul style="list-style-type: none"> • The petitioner states in his letter dated July 29, 2008, that the PokerPro table does not automatically credit and debit a player's account in the cage. • After a technical review of the table, it is clear that a player's wins and losses are electronically transmitted to the player's account on the PokerPro system server. 3) If the ability of the player access card to access the wagering account makes the player access card an instrument of value. The petitioner states that the table would not "accept cash or other instruments of value." <ul style="list-style-type: none"> • The petitioner states in his letter dated July 29, 2008, that the player's access card is not an instrument of value. • The card is the instrument that allows players to play the game and access money they have on deposit.

- 4) That the change would remove “live” dealers from the poker game. The petitioner states that the table will be overseen by a card room employee. The table would replace physical gambling chips with electronic facsimiles of gambling chips.
- The petitioner states in his letter dated July 29, 2008, that a card room employee will be present to oversee the table and address game disputes.
 - **The Commission has only allowed electronic facsimiles of cards and has required physical chips and a “live” dealer to control play at the table.**

Staff has identified two addition rules that may need to be amended if the Commission passes this rule (WAC 230-15-080 and WAC 230-15-085)

Statements Supporting the Proposed Rule Change

At the August 2008 Commission meeting, Mr. Namchek, Vice President of Compliance for PokerTek and Frank Miller, attorney representing PokerTek, testified in support of the petition.

At the October 2008 Commission meeting, two people testified in support of the petition.

- Walter Scott, IGT, a licensed manufacturer of Tribal Lottery Systems
- Dolores Chiechi, Executive Director, Recreational Gaming Association.

Statements Opposing the Proposed Rule Change

Bold = additions since the November 2008 Commission Meeting

- **Letter dated November 13, 2008, from Senator Jeanne Kohl-Welles and Representative Steve Conway opposing the Petition.**
- **Letter dated November 12, 2008, from Senator Jim Hargrove opposing the Petition.**
- **Letter dated November 12, 2008, from Senator Dan Swecker opposing the Petition.**
- **E-mail dated November 13, 2008, from Representative Zack Hudgins expressing concern about the petition and urging the Commission to postpone action on the petition.**

Licensees Directly Impacted By the Change

House-banked licensees, Class E and F card room licensees, manufacturers and distributors.

Staff Recommendation

After testing, the Washington State Gambling Commission Electronic Gambling Lab has concluded the PokerPro system is a gambling device under RCW 9.46.0241. Based on this, staff recommends the petition be denied.

Proposed Effective Date for Rule Change

The petitioner requests an effective date of 31 days from adoption. If the Commission chooses to adopt the rule change, staff recommends an effective date of July 1, 2009.



Proposed amendment to

January 2009 - Petitioner's Original Version Filed

- a) **Amendatory Section WAC 230-14-047**
Standards for electronic video pull-tab dispensers

February 2009 - Study Session

March 2009 - Staff's Alternative #1 Up for Filing

- b) **New Section WAC 230-14-048**
Modification for electronic video pull-tab dispensers

ITEM 9 (a) on the March 13, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
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Who proposed the rule change?

Jay Gerow, ZDI Gaming Inc.

Proposed Change

The petitioner requests the rule be amended to add requirements regarding the amount of time allowed for staff to conduct reviews of electronic video pull-tab dispensers. The rule change would require staff to:

- a) Complete electronic video pull-tab dispenser reviews within 15 days of submission and approve within 21 days when the equipment is approved without changes; and
- b) Conduct limited reviews on equipment that has been previously approved and is only being submitted as an upgrade. The review would be limited to a review of the software signature and documentation of the upgraded changes. The proposed changes allow staff to submit the equipment to the gaming lab if staff notes a regulatory concern or if the upgrade substantively alters the approved equipment.

Staff contacted the petitioner to clarify the intent of his request. The petitioner clarified the intent of the change is to be notified by staff within 15 days of a submission of any concerns with the equipment. If there are no regulatory concerns, staff should provide approval within 21 days. If there are regulatory concerns, the 21 day limit would not apply.

The petitioner further stated that the WSGC Electronic Gambling Lab (EGL) has taken four months or longer to review all ZDI's submissions. He stated that by the time reviews are completed, the submission is obsolete. He believes this is because staff is prioritizing review submissions from manufacturers of Tribal Lottery Systems (TLS) before other manufacturer reviews because of timelines required in Tribal-State Gaming Compacts.

Alternative #1: At their January 2009 meeting, the Commission asked staff to develop an alternative to the petitioner's request. This alternative would create a new rule which sets out the process for submission and approval of modifications to previously approved electronic video pull-tab dispensers.

Attachments:

Bold = additions made after the January 2009 meeting

- **Staff's Alternative #1 up for filing at the March 2009 Commission meeting**
- Petition for Rule Change
- Proposed amendment to WAC 230-14-047

- WAC 230-06-050
- Section 10 of Appendix X2 of the Tribal-State Compacts – Testing of Tribal Lottery Systems to Ensure Integrity

History of Rule

WAC 230-14-047 was filed in January 2008 and became effective in February 2008. Prior to this rule becoming effective, there were no specific standards for electronic video pull-tab dispensers. WAC 230-14-045 defines the requirements for other types of pull-tab dispensing devices but not electronic video pull-tab dispensers. However, the WAC does not describe the submittal process or impose time requirements.

Currently, licensees requesting approval for electronic video pull-tab dispensers must complete a WSGC Game Endorsement Information Form for New or Upgraded Electronic or Mechanical Equipment (GC4-318) and submit a \$2,000 deposit. Once the form and deposit are received, the submission review process begins. The submission is sent to the Gambling Equipment Team (GET) for review. The GET members are from various agency divisions, so their review is as complete as possible.

GET reviews the submission information and determines if a review of the equipment is needed by our electronic gambling lab (EGL). GET considers the following:

- Has the equipment been submitted before;
- Is the submission an upgrade or a new version of previously approved equipment;
- The information provided by the applicant;
- The date and findings of the last review of an upgrade;
- The changes made with the new submission;
- The potential security risk areas.

If an EGL review is warranted, GET places the equipment submission into EGLs work queue immediately. EGL processes submissions in the order they are received. After concluding their review, EGL or the manufacturer may demonstrate the equipment to GET. EGL then writes up their findings. GET makes a recommendation to the Assistant Director for approval or denial based on compliance with WAC, RCW, and Tribal-State Compacts.

Impact of the Proposed Change

Impact of Staff's Alternative #1

Staff's Alternative #1: All of staff's concerns noted under Impact, Regulatory, Resource, and Policy Concerns are addressed in this Alternative. An additional benefit is there will be a clearly defined process for the industry to follow.

Impact of the Original Petition

Impact to Licensees

The review process for video pull-tab dispensers would be completed within 21 days. This could result in a quicker turn around on these types of submissions.

Manufacturers of other types of equipment may be required to wait longer for approval of their equipment because this rule would place electronic video pull-tab dispenser submissions to the front of the queue, regardless of when they were submitted.

Impact to Staff

The proposed changes may require the reallocation of staff resources to meet these timelines. While staff

currently attempts to review equipment in an efficient manner, meeting these time restrictions would likely require staff be re-assigned from other duties to these reviews.

We also run the risk of approving an upgrade that has a feature that is not in compliance with the WAC or RCW's. If the manufacturer does not adequately disclose or document all the changes since the last approval, then we may be approving a non-compliant feature without full knowledge. Currently, EGL compares the code to verify the changes. The petitioner's proposal would limit our review to a verification of the software signature and documentation, unless substantive changes are disclosed. In the end, staff could potentially spend more time addressing potential problems after upgrade approvals rather than in the approval process.

Currently, equipment is not approved until there is a full review and any problems we find are addressed before the equipment is approved.

If this rule change is approved, the process for approving video pull-tab dispensers would be different from other types of equipment approved. There are no timeline requirements for review of table game equipment, shufflers, or other equipment.

Tribal

Tribal Lottery System (TLS) reviews differ significantly from video pull-tab dispenser reviews since new systems and modifications to TLS must first be reviewed and certified by an independent test laboratory (such as Gaming Laboratories Incorporated) prior to the review by the EGL. The initial independent lab review expedites the EGL review by correcting potential problems or issues before arriving at EGL for review. Electronic video pull-tab dispensers are not required to be sent to an independent laboratory.

After receipt of a private lab's certification, there are restrictions in the Tribal-State Compacts regarding the approval of (TLS) and/or components of TLS. Generally, new TLS reviews must be completed within 60 days. Modifications to a system that has already been approved by the EGL must generally be completed within 15 days. Unlike this proposal, the Compacts do not limit the scope of the state's review.

Regulatory Concerns

The proposed language in subsection (4) requires all reviews to be completed within 21 days. The rule does not address how incomplete submissions or how equipment malfunctions will be handled or the process for disapproving a submission or upgrade. If staff reviews an electronic video pull-tab dispenser and changes need to be made before the equipment can be approved, it appears this would all have to be completed within 21 days. This timeline may require staff to deny the equipment rather than working with the manufacturer to bring the equipment into compliance.

If staff's workload is such that a review cannot be completed within the petitioner's timeline, staff would be in violation of this rule. Generally, WAC's do not set processing or approval time limits for the Commission or staff.

The EGL may have to put a hold on other equipment reviews that were received earlier to ensure review timelines for electronic video pull-tab dispensers are met.

While conducting equipment reviews, the EGL has noted that not all software changes were described in the initial application (GC4-318). Subsection (5) of the proposed change would require us to only rely on the changes noted by the manufacturer if the equipment is an upgrade. Staff would only be able to request

that equipment be submitted to the lab if the documentation shows a regulatory concern or there are substantial changes to the software. It is unclear what “regulatory concern” or “substantively alters” the approved equipment means.
Resource Impact
Additional staff may be needed to ensure electronic video pull-tab dispensers are reviewed within the proposed timeline.
Policy Consideration
Under this proposal, we run the risk of approving an upgrade that has a feature that is not in compliance with the WAC or RCWs if the manufacturer does not adequately disclose or document all the changes since the last approval. Currently, EGL compares the code to verify the changes. The petitioner’s proposal would limit our review to a verification of the software signature and documentation, unless substantive changes are disclosed.
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Manufacturers of electronic video pull-tab dispensers and other manufacturers that submit equipment for review.
Staff Recommendation
File Staff’s Alternative #1 for further discussion.
Proposed Effective Date for Rule Change
The petitioner did not specify an effective date. Staff would recommend July 1, 2009, for an alternative rule.

Staff's Alternative #1
Up for Filing at the March 2009 Commission Meeting

New Section:

WAC 230-14-048 Modifications for electronic video pull-tab dispensers.

Proposed modifications for any previously approved electronic video pull-tab dispenser must be submitted in accordance with the provisions of this section.

(1) No modification to any previously approved electronic video pull-tab dispenser may be made unless:

(a) A complete application and deposit were submitted to us including a detailed summary and supporting technical documents describing any modifications from the previously approved version; and

(b) We have reviewed and approved the modification(s).

(2) Technical testing will be required for all modification(s) materially different from the previously approved version or we determine a regulatory concern exists. Modifications considered material include but are not limited to hardware changes, changes to system security settings or procedures, changes to controlled software components, adding new functions or features, or modifying existing functions or features. If testing is required, the manufacturer must provide us with a working system to test. Once testing is completed and no regulatory concerns exist or regulatory concerns were resolved, we will approve the modification.

(3) An applicant or licensee must pay for all actual costs associated with testing the modification. If testing and application review costs exceed the application deposit, we must be reimbursed by the applicant or licensee for our additional costs before we issue a determination.

(4) Modifications not generally considered material are changes to graphics, colors, and sounds and may be limited to a document only review. If testing is not required and there are no regulatory concerns and modifications are not material, we will approve the modification.

(5) We will not approve any modification to any electronic video pull-tab dispenser if there are regulatory concerns. If the applicant or licensee does not agree with the decision, they may file a petition for declaratory order with the commission to be heard as a full review (*de novo*) by an administrative law judge, according to RCW 34.05.240 and chapter 230-17-WAC.



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL RECEIVED
OF A STATE ADMINISTRATIVE RULE (RCW 34.05.330)

NOV 21 2008

The Office of Financial Management (OFM) has adopted this form for members of the public who wish to petition a state agency to adopt, amend, or repeal an administrative rule (regulation). Your request will be given to a petitioner's request.

To obtain this form in an alternate format, call OFM at (360) 902-0555 or TTY (360) 664-9437.

Please complete the following:

GAMBLING COMMISSION
COMM & LEGAL DEPT

PETITIONER'S NAME (PLEASE PRINT) ZDI GAMING INC.		TELEPHONE NUMBER (INCLUDE AREA CODE) 425-775-7991		
STREET ADDRESS 2124 196TH ST SW	PO BOX NUMBER	CITY LYNNWOOD	STATE WA	ZIP CODE 98036
AGENCY RESPONSIBLE FOR ADMINISTERING THE RULE, IF KNOWN WASHINGTON STATE GAMBLING COMMISSION		If unknown, call (360) 753-7470 for mailing information		

Please submit completed and signed form to the "Rules Coordinator" at the appropriate state agency. The agency will contact you within 60 days.

Check all that apply below and explain on the back of this form with examples. Whenever possible, attach suggested language. You may attach other pages, if needed.

☒ 1. NEW: I am requesting that a new WAC be developed.

I believe a new rule should be developed.

- ☐ The subject of this rule is:
- ☐ The rule will affect the following people:
- ☐ The need for the rule is

☒ 2. AMEND: I am requesting a change to existing WAC **22-19-007**.

☐ 3. REPEAL: I am requesting existing WAC **22-19-007** be removed.

I believe this rule should be changed or repealed because (check one or more):

- ☒ It does not do what it was intended to do.
- ☒ It imposes unreasonable costs.
- ☒ It is applied differently to public and private parties.
- ☐ It is not clear.
- ☐ It is no longer needed.
- ☐ It is not authorized. The agency has no authority to make this rule.
- ☐ It conflicts with another federal, state, or local law or rule. Please list number of the conflicting law or rule, if known
- ☐ It duplicates another federal, state, or local law or rule. Please list number of the duplicate law or rule, if known
- ☐ Other (please explain):

PETITIONER'S SIGNATURE

DATE

Standards for electronic video pull-tab dispensers.

Electronic video pull-tab dispensers must be approved by us prior to use, meet the requirements below, and may incorporate only the features below and not perform additional functions.

(1) Electronic video pull-tab dispensers must dispense a paper pull-tab as defined in WAC 230-14-010 and follow the rules for:

- (a) Pull-tabs; and
- (b) Flares; and
- (c) Authorized pull-tab dispensers.

(2) Electronic video pull-tab dispensers that use a reading and displaying function must:

- (a) Use a video monitor for entertainment purposes only; and
- (b) Open all, or a portion of, the pull-tab in order to read encoded data that indicates the win or loss of the pull-tab if the dispenser is equipped to automatically open pull-tabs; and
- (c) Dispense the pull-tab to the player and not retain any portion of the pull-tab; and
- (d) Read the correct cash award from the pull-tab either when it is dispensed or when the pull-tab is reinserted into the dispenser; and
- (e) Display the cash award from the pull-tab, one pull-tab at a time; and
- (f) Provide:
 - (i) An electronic accounting of the number of pull-tabs dispensed; and
 - (ii) A way to identify the software version and name; and
 - (iii) A way to access and verify approved components; and
 - (iv) Security on the dispenser to prevent unauthorized access to graphic and prize amount displays.

(3) Gift certificates or gift cards used in electronic video pull-tab dispensers must:

- (a) Be purchased with cash, check or electronic point-of-sale bank transfer before use in the dispenser; and
- (b) Be convertible to cash at any time during business hours; and
- (c) Subtract the cash value for the purchase of the pull-tab one pull-tab at a time.

(4) The review required under this rule shall be completed within fifteen days of submission and finally approved in twenty one days from the date of submission when the equipment is approved without changes.

(5) A review of upgraded approved equipment shall be limited to a software signature and documentation of the upgraded changes. If a review of the software signature and documentation evidences a regulatory concern or that the upgrade substantively alters the approved equipment, the approved equipment with upgrades may be required to be submitted to the lab.



Rule Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-03-185
Applying for a manufacturer license.

ITEM 10 (a) on the March 13, 2009, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Staff.

Proposed Change

We are adding back into the rule:

- Notification that staff may conduct an onsite review of a manufacturer's processes; and
- That manufacturers must comply with quality control restrictions for gambling equipment used in Washington State.

History of Rule

The rule was passed in March 2006 and became effective January 1, 2008. These requirements were formerly cited under WAC 230-04-110.

These requirements helped applicants know that on-site reviews may be part of the licensing process.

If a licensed manufacturer added new gambling equipment, we relied on this language to tell them that they could not sell the new equipment in Washington until we reviewed their manufacturing process to ensure they met our requirements.

This language was used to review manufacturing processes when quality control issues were a concern.

Impact of the Proposed Change

This rule change codifies what was previously included in our rules and current agency practice.

Regulatory Concerns

None.

Resource Impacts

None.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

None.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Gambling equipment providers.

Staff Recommendation

File for further discussion.

Proposed Effective Date for Rule Change

July 1, 2009.

Amendatory Section

WAC 230-03-185 Applying for a manufacturer license.

(1) You must apply for a manufacturer license if you:

~~(1)~~ (a) Make or assemble a completed piece or pieces of gambling equipment for use in authorized gambling activities; or

~~(2)~~ (b) Convert, modify, combine, add to, or remove parts or components of any gambling equipment for use in authorized gambling activities.

(2) You must demonstrate your ability to comply with all manufacturing, quality control restrictions, and operations restrictions imposed on authorized gambling equipment that you seek to manufacture or market for use within the state of Washington.

(3) The licensing process may include an on-site review of your manufacturing equipment and process for each separate type of authorized gambling equipment to ensure compliance capability.



Rule Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-09-131
Poker tournaments authorized.

ITEM 10 (b) on the March 13, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff	
Proposed Change	
The change would allow Fund-Raising Events (FRE) licensees to award cash prizes at poker tournaments. The rule currently states that only merchandise prizes can be given away.	
The ability to award cash prizes was inadvertently removed during the Rules Simplification Project.	
History of Rule	
In November 2006 the Commission adopted rules authorizing poker tournaments at licensed FREs and Limited FREs.	
The ability to award cash and merchandise prizes for poker tournaments offered during a FRE was previously in WAC 230-25-045 "Chips used in card tournaments do not have a monetary value and may only be redeemed for prizes".	
Only merchandise prizes can be given away at a <i>Limited</i> FRE. This includes poker tournaments operated under a Limited FRE license. This restriction is specific to Limited FREs and was not intended for regular FRE licensees.	
Impact of the Proposed Change	
The ability to award cash prizes at FRE poker tournaments may help charitable or nonprofit organizations draw additional poker tournament players. Additional players may increase their fund-raising at these events.	
Regulatory Concerns	
None.	
Resource Impact	
None.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
Charitable or nonprofit FRE licensees.	
Staff Recommendation	
File for further discussion.	
Proposed Effective Date for Rule Change	
July 1, 2009.	

Amendatory Section:

WAC 230-09-131 Poker tournaments authorized.

Licensees may operate poker tournaments at fund-raising events. Licensees must:

- (1) Adopt and prominently post tournament rules; and
- (2) Count all money paid to enter a tournament or purchase chips as a wager when determining their ten thousand dollar net receipts limits; and
- (3) Not allow chips used in poker tournaments to have a monetary value; and
- (4) Allow chips to be redeemed for cash and/or merchandise prizes (~~((only))~~); and
- (5) Maintain a record of all prizes awarded, including, at least:
 - (a) The amount paid for each prize; and
 - (b) For donated prizes, the name of the donor and a description of the prize(s) donated; and
 - (c) The name and complete address of each winner.



Rule Up For Discussion and Possible Filing

Proposed Amendment to
WAC 230-15-115
Standards for cards.

ITEM 10 (c) on the March 13, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff	
Proposed Change	
This change would no longer require house-banked licensees to use logo cards for nonhouse-banked games (i.e. poker).	
History of Rule	
<p>Prior to the Rules Simplification Project (RSP), we only required logo cards for house-banked card games (such as Blackjack and Pai Gow). We allowed house-banked card game licensees to use nonlogo cards for nonhouse-banked games (i.e. poker).</p> <p>The requirement that house-banked licensees use logo cards for nonhouse-banked games was inadvertently added during the RSP.</p>	
Impact of the Proposed Change	
<p>If this rule change is not approved, house-banked licensees will have to purchase new decks of cards for nonhouse-banked games. The cost of such a purchase may be substantial for some licensees.</p> <p>If this rule change is approved there will be no change to our regulatory program.</p> <p>A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on businesses.</p>	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
House-banked card game licensees.	
Staff Recommendation	
File for further discussion.	
Proposed Effective Date for Rule Change	
July 1, 2009.	

Amendatory Section:

WAC 230-15-115 Standards for cards.

(1) Card game licensees must:

(a) Supply cards of conventional size and design to maximize the integrity of the card games; and

(b) Safeguard all cards; and

(c) Not allow cards that have been modified or marked in any manner.

(2) For Class E, Class F, and house-banked games, the cards must:

(a) Be made by a licensed manufacturer; and

(b) Be purchased from a licensed manufacturer or distributor.

(3) ~~House-banked licensees must use cards with the house name or logo~~ Cards with the house name or logo must be used for house-banked card games.



Rule Up For Discussion and Possible Filing

Proposed New Rule

WAC 230-15-158

Ensuring card room employees meet license requirements.

ITEM 10 (d) on the March 13, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff	
Proposed Change	
The proposed rule would clarify that card room licensees are responsible for ensuring their card room employees are properly licensed.	
History of Rule	
Former WAC 230-04-140 stated "Public card room operators shall not employ any unlicensed person to perform duties for which a license is required and shall take all measures to prevent an unlicensed person from doing so."	
This rule was left out of the new Rules Simplification Rules manual because it was felt that RCW 9.46.158 would suffice. However, it has been determined that this rule is important because it clarifies that card room operators are responsible for ensuring that their employees are properly licensed.	
Since the new rule manual became effective in January 2008, commission staff found at least eight violations where a card room employee was allowed to work with an expired license.	
Impact of the Proposed Change	
Our regulatory program will not change. The new rule will make it clear that operators are responsible for employing card room employees that have a valid license.	
A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees.	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
Card room licensees.	
Staff Recommendation	
File for further discussion.	
Proposed Effective Date for Rule Change	
July 1, 2009.	

New Section:

WAC 230-15-158 Ensuring card room employees meet license requirements.

Card game licensees must not allow any person to perform the duties of a card room employee until they have met our licensing requirements.



Rule Up For Discussion and Possible Filing

Proposed Amendment
WAC 230-15-145
Making wagers with chips or coin.

ITEM 11 (a) on the March 13, 2009, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Lance Dodd, licensed poker manager.

Proposed Change

The petitioner requests that players be allowed to use half dollars or quarters to pay fees in nonhouse-banked card games.

The petitioner, a licensed poker manager, states this would give poker operators a more accurate way to collect fees (rake) associated with poker games.

Attachments:

- Memo to the Commission outlining their options for handling the petition.
- Letter notifying the petitioner that the petition will be up for filing at the March 2009 meeting.
- Petition for Rule Change and letter received February 5, 2009.
- Proposed changes to WAC 230-15-145

History of Rule

WAC 230-15-145 requires players to make wagers and pay fees using chips. There is an exception that allows players to use half dollars and quarters in house-banked card games. The petitioner is requesting that players in nonhouse-banked games, primarily poker, be allowed to use half dollars or quarters to pay fees. This would allow poker operators to collect additional fees.

Licensees utilizing the rake method to collect fees are limited to a maximum of 10% of the pot or \$5 whichever is less. The proposed change does not affect this fee limit.

For example: A typical fee structure in a poker game using a rake might be 10% of the pot or a maximum of \$3. If the pot size were \$28, the licensee is only able to rake two \$1 chips for the \$2.80 fee. Most card room operators round down to the nearest dollar so they do not go over the 10% maximum allowed fee. In this scenario, the licensee would not be able to collect \$0.80 in fees because they typically do not have chip denomination below \$1. By allowing half dollars or quarters, the licensee would be able to rake two-\$1 chips plus an additional \$0.75 in coins, collecting a fee closer to their advertised fee structure.

This rule was recently changed, effective 1/1/09, to allow dimes and nickels to be used in all games that charge a commission, not just Pai Gow poker. The change was requested by the Recreational Gaming Association in conjunction with their request to authorize Mini-Baccarat.

Impact of the Proposed Change

We anticipate little to no impact on the agency. Coins are currently allowed in house-banked card games and we have not had significant issues related to coins. Our regulatory work will not change.

The petitioner states that nonhouse-banked card game licensees could see additional revenue by being able to collect closer to the 10% maximum allowable fee.

Staff is doing additional research to determine if the petitioner's request is in the proper rule. We will provide an update at the March 2009 Commission Meeting.

A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees.

Regulatory Concerns

We do not anticipate regulatory issues or additional regulatory work needed to monitor this change.

Resource Impacts

We anticipate no additional resources needed to implement or monitor activities due to this rule change.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

None.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Licensees offering nonhouse-banked card games.

Staff Recommendation

File for further discussion.

Proposed Effective Date for Rule Change

The petitioner did not request an effective date. If the Commission chooses to adopt the proposed rule change, staff recommends an effective date of July 1, 2009.

Amendatory Section:

WAC 230-15-145 Making wagers with chips or coin.

Players in card games must make all wagers and pay fees to play card games with chips, except that:

(1) Players may use half dollars or quarters in house-banked card games; and in nonhouse-banked card games to pay fees.

(2) Players may use dimes and nickels in any game that allows a commission to be charged.



Rule Up For Discussion and Possible Filing

Proposed Amendatory Section

WAC 230-15-320

Surveillance room requirements for house-banked card game licensees.

ITEM 12 (a) on the March 13, 2009, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Delores Chiechi, representing the Recreational Gaming Association.

Proposed Change

The petitioner is requesting a rule amendment to increase the winning payout verification limit from \$1,000 to \$3,000.

The petitioner states that the current rule “potentially puts Surveillance Observers and Table Games Supervisors into a reactive mode verifying \$1,000 payouts since the frequency of such payouts increases significantly with \$300 wagers.”

Attachments:

- Memo to the Commission outlining their options for handling the petition.
- Letter notifying the petitioner that the petition will be up for filing at the March 2009 meeting.
- Petition for Rule Change and letter received January 20, 2009.
- Proposed changes to WAC 230-15-320
- WAC 230-15-310

History of Rule

WAC 230-15-320 (4) requires surveillance observers at house-banked card rooms to use a pan-tilt-zoom (PTZ) camera to verify all winning payouts greater than \$1,000. Verification of the winning payout includes a surveillance observer using a PTZ camera to zoom in on the player’s face, the wager, and the winning hand of cards.

In January 2009, wagering limits at house-banked card rooms increased from \$200 to \$300. The petitioner states that if house-banked card rooms choose to offer \$300 wagering limits, it is possible that surveillance observers will have to verify more jackpot payouts than normal if the payout verification limit remains at \$1,000. Many card games offered at house-banked card rooms have bonus payouts with 4:1 odds and are frequently paid. At \$300 betting limits and a payout verification limit of \$1,000, surveillance observers may spend more time verifying jackpot payouts and less time performing other necessary duties in the surveillance room.

Agents rarely see wagers at the \$300 limit, particularly with the smaller card rooms. Agents see average bonus wagers of \$5-\$20 placed by patrons. When agents do compliance checks on bonus prize payouts, they are finding few prize payouts over \$1,000. As a result, staff does not anticipate an increase in the larger payouts.

For example, if a player wagers \$300 on a bonus game with 4 to 1 odds, the payout would be \$1,200. However, agents rarely see players wagering at the \$300 maximum limit.

Impact of the Proposed Change
<p>Impact on House-Banked Card Game Licensees</p> <p>The petitioner states that:</p> <ul style="list-style-type: none"> • If the payout verification limit is increased from \$1,000 to \$3,000, surveillance observers at house-banked card rooms may not have to spend a large amount of time verifying jackpots. • Increasing this surveillance payout requirement to \$3,000 would make this rule more consistent with WAC 230-15-319. WAC 230-15-319 requires card rooms to retain surveillance recordings of jackpot payouts of \$3,000 or more for thirty days. <p>Impact on Commission</p> <p>There is little to no impact on the Commission if the rule change is approved.</p> <p>A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensee.</p>
Regulatory Concerns
<p>Staff would lose the ability to verify payouts under \$3,000.</p> <p>House-banked card rooms would no longer be required to obtain detailed footage of jackpot payouts under \$3,000. If there is a complaint about a jackpot payout, the detailed surveillance recordings may not be available for staff review. In these situations, staff would require card rooms to pay the prize to the player pursuant to WAC 230-15-310.</p>
Resource Impacts
None.
Policy Consideration
None.
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
House-banked card game licensees.
Staff Recommendation
File for further discussion. However, the petitioner should provide evidence this occurs frequently enough to offset the loss of detailed information presently used to resolve disputes.
Proposed Effective Date for Rule Change
The petitioner did not request an effective date. If the Commission chooses to adopt the proposed rule change, staff recommends an effective date of July 1, 2009.

WAC 230-15-310 Resolving disputes using video recordings.

- (1) If the video recording of a disputed incident is not clear, we will resolve the dispute in favor of the player unless the Class F or house-banked card game licensee can prove to us that the actions taken were warranted.
- (2) Licensees may request a review by commission staff if the licensee feels circumstances warrant, for example, cheating has occurred.



P O B O X 1 7 8 7 • O L Y M P I A , W A 9 8 5 0 7 - 1 7 8 7 • (3 6 0) 3 5 2 - 0 5 1 4 • F A X (3 6 0) 3 5 2 - 4 5 7 9

January 16, 2009

Washington State Gambling Commission
P.O. Box 42400
Olympia, WA 98504-2400

RE: Petition for Rule Change WAC 230-15-320
Surveillance room requirements for house-banked card game licensees


Dear Commissioners:

The Recreational Gaming Association respectfully submits the attached petition for rule change to WAC 230-15-320. This change would increase the amount from \$1000 to \$3000 for verification of payouts on winning wagers, jackpots and bonus payouts making it consistent with requirements in WAC 230-15-319.

WAC 230-15-319, Section 2 (b) (ii), requires payouts greater than \$3,000 be retained for at least 30 days. However, WAC 230-15-320, Section 4 requires that surveillance room use a pan-tilt-zoom (PTZ) camera to verify every winning payout greater than \$1,000. Based on a maximum bet limit of \$200, odds based payouts greater than 5:1 would be captured by this rule, however as you know, the Commission approved \$300 wager limits and mini-baccarat, which on a Tie bet, has an odds based payout of 8:1.

Most card games offered by house-banked card room licensees have bonus payouts with 4:1 odds and are frequently paid. On a \$300 bet, this will meet or exceed the amount required for surveillance to verify the transaction. This rule potentially puts Surveillance Observers and Table Games Supervisors into a reactive mode verifying \$1,000 payouts since the frequency of such payouts increases significantly with \$300 wagers. This potentially reduces game protection while surveillance and supervisory staff attentions are taken to verify common place occurrences. Customer service also is affected as the game must be stopped every time a basic payout is made with odds greater than 4:1.

We have alerted staff as to the need to create consistency in these rules and believe the attached rule petition accommodates all parties. We look forward to being provided the opportunity further discuss this issue. Thank you in advance for your attention and consideration.

Sincerely,

Dolores A. Chiechi
Executive Director

Attachments



**PETITION FOR ADOPTION, AMENDMENT, OR REPEAL
OF A STATE ADMINISTRATIVE RULE (RCW 34.05.330)**

The Office of Financial Management (OFM) has adopted this form for members of the public who wish to petition a state agency to adopt, amend, or repeal an administrative rule (regulation). Full consideration will be given to a petitioner's request.

To obtain this form in an alternate format, call OFM at (360) 902-0555 or TTY (360) 664-9437.

Please complete the following:

PETITIONER'S NAME (PLEASE PRINT)

Recreational Gaming Association

TELEPHONE NUMBER (INCLUDE AREA CODE)

360-352-0514

STREET ADDRESS

PO BOX NUMBER

CITY

STATE

ZIP CODE

Post Office Box 1787

Olympia

WA

98507-1787

AGENCY RESPONSIBLE FOR ADMINISTERING THE RULE, IF KNOWN

WSGC

If unknown, call (360) 753-7470 for mailing information

Please submit completed and signed form to the **"Rules Coordinator"** at the appropriate state agency. The agency will contact you within 60 days.

Check all that apply below and explain on the back of this form with examples. Whenever possible, attach suggested language. You may attach other pages, if needed.

☐ **1. NEW: I am requesting that a new WAC be developed**

I believe a new rule should be developed.

- ☐ The subject of this rule is:
- ☐ The rule will affect the following people:
- ☐ The need for the rule is:

☒ **2. AMEND: I am requesting a change to existing WAC 230-15-320**

☐ **3. REPEAL: I am requesting existing WAC _____ be removed.**

I believe this rule should be changed or repealed because (check one or more):

- ☐ It does not do what it was intended to do.
- ☐ It imposes unreasonable costs.
- ☐ It is applied differently to public and private parties.
- ☐ It is not clear.
- ☐ It is no longer needed.
- ☐ It is not authorized. The agency has no authority to make this rule.
- ☒ It conflicts with another federal, state, or local law or rule. Please list number of the conflicting law or rule, if known
- ☐ It duplicates another federal, state, or local law or rule. Please list number of the duplicate law or rule, if known
- ☒ Other (please explain): Increased wager limits for house banked card games require stopping games for surveillance verification every time a basic payout is hit as well as the games that offer payout odds of 4:1 or greater especially mini-baccarat. The change would make this rule consistent with WAC 230-15-319.

PETITIONER'S SIGNATURE

DATE

WAC 230-15-320

Surveillance room requirements for house-banked card game licensees.

House-banked card game licensees must maintain one or more surveillance rooms. They must:

(1) Control access to the surveillance room so that only surveillance department employees use the room. Owners or their approved supervisory or management personnel may also enter the surveillance room to monitor activities. Licensees may allow authorized personnel to escort any other person into the surveillance room for educational, investigative, or maintenance purposes; and

(2) Ensure that surveillance room entrances are not easily observed from the gambling floor; and

(3) Ensure that a surveillance employee is present in the room and monitoring activities using the equipment any time the card room is conducting gambling and during the count process. However, subject to subsection (4) of this section, licensees may operate the surveillance room without staff:

(a) For routine breaks that are less than thirty minutes per shift; or

(b) When only nonhouse-banked card games are operated with wager limits of forty dollars or less and such limits are documented in their internal controls.

(4) Ensure that any time a winning wager, a jackpot, or bonus pay out greater than ~~one~~ three thousand dollars is won, they use pan-tilt-zoom (PTZ) cameras to verify:

(a) Winning hands; and

(b) Amounts of the wager; and

(c) Amounts of the pay out; and

(d) Players who won the prize.

[Statutory Authority: RCW 9.46.070, 08-23-080 (Order 638), § 230-15-320, filed 11/18/08, effective 1/1/09; 07-10-034 (Order 611), § 230-15-320, filed 4/24/07, effective 1/1/08.]